

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
ALFONSO CANADA, DEFENDANT AND APPELLANT.***G.R. No. L-19132. September 26, 1964*

Ponente: BAUTISTA ANGELO, J.

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Charged with murder before the Court of First Instance of Quezon for the death of one Felicito Escobido, Alfonso Canada was found guilty and sentenced to life imprisonment, to indemnify the heirs of the deceased in the sum of P6,000.00, and to pay the costs. He interposed the instant appeal.

There is no direct evidence showing how the deceased met his death. The only evidence at hand is circumstantial from which the following facts may be deduced: (1) the accused and the deceased were friends and neighbors and were both living in barrio San Vicente, Gumaca, Quezon; (2) the deceased before the tragic incident was living in the house of his nephew Miguelito Decena, his niece Nena Decena, and the father and mother of the latter; (3) in the afternoon of December 7, 1958, the accused and the deceased arrived together at the house where the Decenas were living and immediately thereafter the accused ordered Miguelito to buy wine which Miguelito obliged by buying one ipit of wine which is equivalent to one bottle of beer, the two having drunk the same with fish as pulutan until eight o'clock at night; (4) the accused invited the deceased to go out to serenade which invitation the deceased at first declined, but which he later accepted, as in fact the two went out together; (5) since then the deceased never returned for in the morning his dead body was found near his house right between the railroad tracks; (6) having been notified of the presence of the dead body of the deceased, the municipal health officer, Dr. Alfredo T. Dansico, and a policeman, went to the place of the occurrence to investigate where they found some clues relative to the death of the deceased. For instance, they found a fountain pen three meters away from the dead body which, according to Miguelito Decena, belonged to the accused. They also found a bolo which belonged to the deceased still in its scabbard situated among the rails and not attached to his body. They found no blood stains within the vicinity of the railroad tracks while the body did not show any sign of having been run over by the train. The deceased however smelt alcohol and apparently he was drunk before he died; and (7) when Dr. Dansico examined the body of the deceased he found therein many wounds which he described in his medical certificate as follows:

- "1. Wound, lacerated, neck, left— 1-1/2 inch long, 3" wide & 2" deep;
2. Wound, lacerated, arm left, abt. 2-1/2" long, 1-1/2" wide and 1/4" deep.
3. Wound, lacerated, forehead, 2" long, 1/2" wide and 1/4" deep.
4. Wound, lacerated, forehead, about 1-1/2" long, 1/2" wide and 1/4" deep.
5. Right hand severed.
6. Left toe missing.
7. Wound, lacerated, left shoulder, 3" long, 2" wide and 1/3" deep.

8. Wound, lacerated, right feet, 1" long, 1/2" wide and 1/3" deep.

Subject smells alcohol."

The evidence further shows that the accused had been courting Nena Dccena, niece of the deceased; that Nena Decena refused to accept him due to the opposition of her mother and that of the deceased; that the accused and the deceased used to have quarrels and fights before the incident; and that the accused had the impression that his failure to win the affection of Nena Decena was due to the opposition of the deceased.

The defense, on the other hand, tried to establish the following facts: In the night of December 7, 1958, the accused and the deceased, together with Paterno Mandac, Esteban Salazar and Mamerto Macaro, went to the house of the rural policeman to drink wine and after having become drunk they proceeded to the house of one Eusebia Buenaflor where they serenaded. There both the accused and the deceased sang, and when they were asked by Eusebia to enter the house everyone did as bidden except the deceased. The deceased remained outside preferring to take rest outside, and when they called again the deceased to enter the house he was no longer to be found. In the house the merrymaking continued up to two o'clock in the morning when the accused and his companions all went to bed and did not wake up until six o'clock in the morning when Eusebia woke them up to inform them that Felicito Escobido was found dead somewhere near the railroad tracks.

As may be noted, no one saw how the deceased met his death, and if the defense' theory is to be believed, the accused could not have been the aggressor or the one who caused the many wounds found in the body of the deceased for he was then in the house of Eusebia Buenaflor from the moment the deceased remained outside until early the next morning when he went to bed find did not wake up until six o'clock when Eusebia informed him that the deceased was dead.

But the court a quo found him guilty in view of the presence of some circumstantial evidence. Said the court:

"* * * These circumstances are (1) that the accused bora deep ill-feeling and resentment against Felicito Escobido on account of the latter's opposition to the marriage of the accused to the niece of the deceased Nena Decena who unceremoniously refused the accused for marriage; (2) that the accused on the night of December 7, engaged the deceased in a drinking spree and when already drunk he insisted on inviting the deceased who reluctantly consented to go with the accused to serenade; (3) that the accused and three other companions went to the house of the rural policeman and there they drank again; (4) that the accused never took interest in locating Escobido after he notice his absence from the group of serenaders; (5) that near the body of the deceased was found the fountain pen of the accused; (6) that there were frequent fights between the two, the deceased and the accused, prior to the incident. All these circumstances point to no other conclusion than that the accused killed Escobido out of spite and revenge."

While it is true that there is no direct evidence pointing to the accused as the assailant or the person who inflicted the wounds that caused his death, we agree with the court a quo that the circumstances it pointed out constitute more than sufficient evidence to bring our mind to the conclusion that he is the only one who could have had sufficient motive to wish the death of the deceased. It is a fact that the deceased is an uncle of Nena Decena and was living in her house sometime before his death was discovered. There were then two persons who were after the hand of Nena at the time; the accused and one Victor Javier who later became her husband. Why Victor was accepted and the accused rejected, the answer is not difficult to find. From the very lips of Nena Decena, who testified in this case, comes the answer. She said that she rejected the courtship of the accused because her uncle Felicito Escobido was opposed to it as he disliked the way the accused was courting her, and that whenever the two had a drinking spree they always engaged in a fight. While Nena explained that she rejected the courtship of the accused because she was already engaged to Victor Javier arid the accused is her near relative, this statement cannot erase the fact that the accused got the impression that his rejection was due to the opposition of the

deceased to his courtship.

Moreover, it was the accused who invited the deceased to go with him on the night in question to drink and to serenade, and yet when the deceased did not show up in the house of Eusebia Buenaflor where they had a merrymaking he never showed any interest in his whereabouts. As a matter of fact, he slept in a camarin near that house up to six o'clock the next morning when Eusebia informed him of the gruesome discovery of the death of the deceased. Considering that the railroad tracks where the body was found were very near the house of Eusebia, it is not improbable for the accused to have left the house that same evening as an interlude of the merrymaking to go where the deceased was to assault him and return later unnoticed. This in a way explains why his fountain pen was found some meters away from where the dead body laid still. The explanation that said fountain pen was lent to the deceased one week before his death bears the earmark of an afterthought.

Nevertheless, the facts borne out by the evidence, in our opinion, only establish this crime of homicide for they do not show the existence of any circumstance that may qualify the killing to murder. And considering that the crime was committed at nighttime without any mitigating circumstance to offset it, the penalty prescribed by law should be reclusion temporal in its maximum period. Appreciating in his favor the benefits of the Indeterminate Sentence Law, we hereby impose upon the accused an indeterminate penalty of not (less than 6 years and 1 day of prison mayor and not more than 20 years of reclusion temporal. And with this modification, we hereby affirm the decision appealed from, with costs.

Bengzon, C.J., Concepcion, Reyes, J.B.L., Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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